

ADDENDUM 1

Volume 16

W2003-00669-CCA-R3 PD

1 IN THE CIRCUIT COURT OF
2 MADISON COUNTY, TENNESSEE
3 AT JACKSON, DIVISION I
4

5 JON HALL,

6 Petitioner,

7 vs.

No. C00-422

8 STATE OF TENNESSEE,

9 Defendant.

10 -----
11 MOTION TO WITHDRAW
12 MOTION FOR SURRENDER OF ATTORNEY PRODUCT
13 MARCH 22, 2001
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AMY MAYS

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OFFICIAL COURT REPORTER

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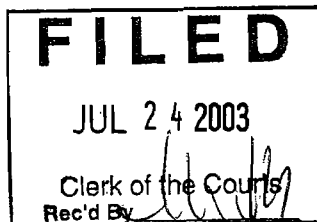
MADISON COUNTY JUSTICE COMPLEX

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JACKSON, TENNESSEE 38301

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(901) 423-6039



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ORIGINAL

Vol. 16

1 APPEARANCES

2 Before the Honorable:

3 JUDGE ROY B. MORGAN, JR.

4 For the Petitioner:

5 MR. PAUL J. MORROW, JR.

6 MS. M. BRISTOL

7 Staff Attorney

8 Post-Conviction Defender

9 460 James Robertson Parkway

10 Second Floor

11 Nashville, Tennessee 37243

12 For the State:

13 MR. ALFRED E. EARLS

14 Assistant District Attorney General

15 Lowell Thomas State Office Building

16 P. O. Box 2825

17 Jackson, Tennessee 38302

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1 THE COURT: Come around, Mr.

2 Hall.

3 And counsel is here for Ms.

4 Taylor.

5 THE COURT: You are Jon Hall.

6 Correct?

7 THE PETITIONER: Yes.

8 THE COURT: Now you're going to
9 have to speak up because we're taking
10 this down, and, plus, I want to be sure
11 I hear you.

12 THE PETITIONER: Yes, sir.

13 THE COURT: This is Docket
14 Number C00-422. It's a post-conviction
15 petition that's been filed by Mr. Hall.
16 We're here today because there's been
17 some confusion regarding counsel. I
18 first appointed Mr. Scott Kirk who's
19 here, and then there was a request filed
20 that the State program participate, and
21 counsel is here today, and we appointed
22 counsel at their request, I think,
23 because they were familiar with Mr.
24 Hall's case, and they replaced Mr. Kirk,

1 but there's a problem there. Is that
2 correct?

3 MS. BRISTOL: Yes, Your Honor.

4 THE COURT: You can state for
5 the record what you wish. I have your
6 written motion. Go ahead.

7 MR. MORROW: Your Honor please,
8 I'm Paul Morrow. I'm Deputy Post-
9 Conviction Defender, and Ms. Bristol is
10 a staff attorney in our office. And
11 that is correct, Your Honor. We felt
12 compelled by statute we were supposed to
13 be appointed and felt obliged to make
14 the Court aware of that and were
15 appointed and had done a number of
16 things in Mr. Hall's case, to the point
17 though where we discovered that
18 inadvertently we also represented
19 another client, and the two had come
20 into an irreconcilable conflict, and in
21 a quandary, we consulted the Board of
22 Professional Responsibility. They did
23 agree we had an irreconcilable conflict,
24 the nature of which for a lot of reasons

1 we can't disclose on the record, and
2 because of that, we filed the current
3 Motion to Withdraw.

4 THE COURT: Well I understand
5 and respect your position in it, yours
6 and Ms. Bristol's, and I think that your
7 motion should be granted. I don't have
8 any hesitation as far as that's
9 concerned.

10 And, Mr. Hall, you understand
11 the problem and why they've got to be
12 replaced at this point?

13 THE PETITIONER: Yes, sir.

14 THE COURT: And they've
15 discussed it with you.

16 THE PETITIONER: Yes.

17 THE COURT: That was my main
18 concern in having you here. I like you
19 to be present so you understand what's
20 going on because changing lawyers in and
21 out, you need to be aware of it and why
22 and make sure we have a smooth
23 transition.

24 Now, upon receiving Counsel's

1 request to withdraw and anticipating it
2 should be granted, I contacted Ms. Linda
3 Taylor in hopes of keeping the case
4 moving along. Ms. Taylor is local
5 counsel, and she is death-qualified and
6 certainly competent to proceed in this
7 matter. She is represented. One of her
8 lawyers in the office is here with us
9 because Ms. Taylor couldn't be here
10 today, but we've got the Order prepared
11 and are going to proceed on to do that.
12 Appreciate you being with us on her
13 behalf.

14 Mr. Hall is being housed where
15 now?

16 THE PETITIONER: Riverbend.

17 THE COURT: I ask that question
18 to be sure that Ms. Taylor knows his
19 whereabouts.

20 This matter, at request of I
21 guess Ms. Bristol earlier, had been set
22 for hearing in September. We've got
23 hearing dates in September. Now, at
24 this point in time --

1 What were those dates in
2 September, Ms. Page?

3 MS. PAGE: September the 10th.

4 THE COURT: At this point in
5 time I'm going to leave it set for
6 September 10th, but, I want Ms. Taylor
7 to be made aware that she can contact
8 us, and if at all possible, we need to
9 move it to a sooner date. I would
10 certainly look at the calendar and see
11 what I could do. It was put off again
12 because Counsel on behalf of Mr. Hall
13 had requested it to be put off, and I
14 understand and respect that, but new
15 counsel might change their mind after
16 conferring with Mr. Hall and determine
17 we need a date sooner than September, if
18 possible, or later than September. I
19 don't know. But leave that open for Ms.
20 Taylor once she talks to Mr. Hall.

21 And you've got an Order to
22 submit withdrawing, or are you going to
23 get one to me?

24 MS. BRISTOL: I believe I filed

1 it with the clerk, Your Honor.

2 THE COURT: Just so I'll know
3 for the record, Mr. Buchanan, who sent
4 his own motion, is in private practice
5 now. Correct?

6 MS. BRISTOL: Yes, Your Honor.

7 MR. MORROW: Your Honor, he is
8 licensed in Texas as well as Tennessee.
9 He is in Texas on another criminal
10 matter today, and that's the reason he
11 cannot be here. So we felt it
12 incumbent, even though we had this
13 conflict, to try to maintain some
14 continuity of counsel, and Mr. Buchanan
15 had worked on this with Mr. Hall in a
16 separate matter, and we suggested to Mr.
17 Buchanan that he might consider taking
18 this case. So that's why this motion
19 was filed.

20 THE COURT: Well you heard my
21 comments earlier. I just never -- I've
22 got to look at it a certain way because
23 we have certain rules, and here's a
24 motion by private counsel saying,

1 "Appoint me." That's not --

2 MR. MORROW: Well in the
3 interest of trying to have continuity,
4 we felt it was part of our
5 responsibility as Post-Conviction
6 Defender.

7 THE COURT: I understand, but
8 there are also other interests involved
9 in something like that, too. I
10 understand that one interest, and I also
11 respect that there are others I have to
12 deal with, and I've not seen that done
13 before.

14 Now you're in a different
15 situation in your State capacity, and
16 we're thankful that you're there to
17 handle those matters that you can handle
18 without conflict. Unfortunately this is
19 not one of them.

20 Anything further this morning
21 that we need to do?

22 THE PETITIONER: Yes. I filed a
23 Motion for Surrender of Attorney Work
24 Product because they appointed new

1 counsel so that I could take control of
2 the case so that I can get my attorney
3 work product.

4 MR. MORROW: Your Honor, our
5 point of view is that this is Mr. Hall's
6 file, and we'll be happy to comply, to
7 send the record to him or his counsel or
8 both.

9 THE COURT: Surely he'd want at
10 least his counsel to have them, too;
11 whether he gets them, to have his
12 attorney most effectively --

13 MR. MORROW: I don't know how
14 much storage capacity they have for all
15 the records we have, but we'd be happy
16 to comply. Mr. Hall is quite correct,
17 and we've always taken the position that
18 these are the clients' files.

19 THE COURT: Mr. Hall, any
20 question about that?

21 THE PETITIONER: Here's the
22 Order. I had filed it. It should be in
23 your court.

24 THE COURT: I'm looking at what

1 you submitted.

2 MR. MORROW: And we would be
3 happy to consult at length or as much as
4 new counsel would like, and I'd like
5 Counsel to know that.

6 THE COURT: And maybe swap out
7 the method of contacting, phone numbers,
8 fax, address, that type of thing. It's
9 in the file, too, but make it easy where
10 counsel will have that readily available
11 when she gets started.

12 Mr. Hall, they say they're going
13 to comply, and I take them at their word
14 on that. They'll get you the
15 information. Do you mind furnishing to
16 Ms. Taylor also?

17 THE PETITIONER: Well I have the
18 Order. It's been filed in your court.

19 THE COURT: I'm looking at the
20 Order. I'm looking at it.

21 THE PETITIONER: My motion?

22 THE COURT: Yes, sir. Yes, sir.

23 THE PETITIONER: And you can see
24 that I've had 12 attorneys withdraw, and

1 I've been trying to get records from
2 each and every one of them, and every
3 time they try quid pro quo with me. You
4 know, they give me two documents, they
5 give me three documents here, like they
6 sell me bubble gum or something. I'd
7 like the whole case file because all I'm
8 getting is piecemeal.

9 THE COURT: That's what you
10 anticipate giving him, what you have as
11 far as --

12 MR. MORROW: We consider this
13 the client's file, and we'll give him
14 everything that we have.

15 THE COURT: If there's a problem
16 come up, let me know, but I'm going to
17 assume at this point they're going to do
18 that, and I'll discuss that with Mr.
19 Hall and Counsel if it were not done at
20 the next appearance.

21 MS. BRISTOL: Your Honor, the
22 only problem will be just the amount of
23 time that it will take to copy it. It's
24 rather voluminous. So if new counsel

1 and Mr. Hall will be patient with us,
2 we'll get it done as soon as humanly
3 possible.

4 THE COURT: I'm sure both
5 understand that that's going to take
6 some time.

7 THE PETITIONER: Your Honor, I'd
8 also previously filed an objection in
9 rebuttal response to State's response
10 and Motion to Dismiss because it was a
11 shotgun answer, and according to TCA, I
12 believe he is supposed to answer each of
13 my allegations in full, and whenever he
14 gives me a three-answer shotgun answer,
15 a blanket answer, it's not sufficient
16 for what I'm trying to find out.

17 THE COURT: I'm not in a
18 position until you get the benefit of
19 counsel to take up any other motions. I
20 want you to discuss any pending matters
21 with counsel before we proceed to rule
22 on anything.

23 THE PETITIONER: Well, see, I'd
24 just taken reigns of the case if they're

1 dismissed. I am counsel of record right
2 now.

3 THE COURT: Well I'm telling you
4 as Judge of this Court that you're going
5 to speak with your attorney, unless
6 you're refusing to accept the new
7 attorney and don't want an attorney.

8 THE PETITIONER: Not until I get
9 what I need.

10 THE COURT: Well you do want
11 legal counsel, don't you?

12 THE PETITIONER: That's --
13 That's to be seen. So far, you know,
14 I've been jerked around ever since day
15 one in this case by legal counsel.

16 THE COURT: Well, I don't know
17 the background as far as you and your
18 attorneys.

19 THE PETITIONER: I understand
20 that.

21 THE COURT: Let me ask you this
22 question, Mr. Hall, and think about it
23 before you respond. You're not asking
24 to proceed pro se in this case. Is that

1 correct?

2 THE PETITIONER: In actuality I
3 am.

4 THE COURT: You do not want a
5 new attorney appointed?

6 THE PETITIONER: No, I'm trying
7 to take reigns of this case where I can
8 start getting things done because I --
9 you know, I've been going at this, you
10 know, and all I've been getting was,
11 "Well, your attorney has got to do
12 this," and if my attorney don't do it,
13 it's being delayed under due process
14 violation.

15 THE COURT: Let me ask you this.
16 Do you want the benefit of speaking with
17 Ms. Linda Taylor before you make this
18 decision not to accept legal counsel?

19 THE PETITIONER: Well like I
20 said, until I got my records, I couldn't
21 make a knowing and intelligent decision
22 on any of that.

23 THE COURT: Well they're coming,
24 so you obviously want to wait before you

1 make this decision. Correct?

2 THE PETITIONER: Exactly.

3 THE COURT: Okay, we solved that
4 problem. Let him talk to Ms. Taylor.
5 He's going to have Ms. Taylor. An Order
6 will go down. Then if he decides to go
7 pro se later, then so be it. We'll take
8 the matter up in court on the record.

9 Mr. Hall, thank you, sir.

10 THE PETITIONER: Well what about
11 these other motions?

12 THE COURT: I'm not discussing
13 any other motions today until you have
14 the benefit of speaking with Ms. Taylor.

15 THE PETITIONER: Then nothing's
16 been resolved, so I've been brought down
17 here for nothing.

18 THE COURT: Mr. Hall, you're
19 excused at this time. Thank you, sir.

20 You will need to submit an
21 Order. It's not in the file.

22 MS. BRISTOL: Yes, Your Honor,
23 I'll get one drafted.

24 THE PETITIONER: How come we

1 can't get nothing resolved?

2 COURT OFFICER: Sir, don't speak
3 anymore.

4 THE PETITIONER: I'm going to
5 have to go to the Administrative Office
6 of the Courts on this bullshit. I'm
7 getting tired of this.

8 THE COURT: Mr. Hall, watch your
9 language in this courtroom. I have
10 resolved things, and the record will
11 reflect what we resolved today, but
12 watch your language. I don't want that
13 type language in the courtroom.

14 THE PETITIONER: What are you
15 going to do, execute me?

16 THE COURT: Thank you, Mr. Hall.

17 MS. BRISTOL: Do you need
18 anything further from us, Your Honor.

19 THE COURT: We just need to get
20 that Order. Thank you.

21 MS. BRISTOL: I'll be sure and
22 submit it this afternoon, Your Honor.

23 - - - - -

24 END OF REQUESTED PROCEEDINGS.

1

CERTIFICATE

2

I, the undersigned Amy Mays,

3

Official Court Reporter for the 26th

4

Judicial District of the State of

5

Tennessee, do hereby certify that the

6

foregoing is a true, accurate and

7

complete transcript, to the best of my

8

knowledge and ability, of the requested

9

proceedings had in the captioned cause,

10

in the Criminal Court for Madison

11

County, Tennessee, on the 22nd day of

12

March, 2001.

13

I do further certify that I am

14

neither of kin, counsel nor interest to

15

any party hereto.

16

17

18

19

AMY MAYS

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21

22

DATE

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CERTIFICATE OF THE COURT

THIS IS TO CERTIFY THAT THE
TRANSCRIPT OF EVIDENCE ADDUCED AT THE
HEARING OF THIS CAUSE HAS BEEN FILED
WITH THE CLERK OF THE COURT.

The Court has examined this Transcript of Evidence and has found it to be a true and accurate record of the proceedings.

Therefore, it is Ordered, Adjudged and Decreed that the Transcript of Evidence is hereby approved by the Court and will be part of the record on appeal in this case.

JUDGE

DATE

APPROVAL:

ATTORNEY FOR THE STATE

ATTORNEY FOR THE DEFENDANT